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Reagan blunders on Kennedy

PRESIDENT REAGAN'S firing of William Kennedy from the post of United States attorney here raises a number of sensitive issues.

—Was it necessary to fire Kennedy, an able and honest prosecutor who had been in office only since Dec. 23? We think not.

—Should the Central Intelligence Agency have the right to protect its foreign informants from criminal prosecution in this country on charges that they have violated U.S. law? We think not.

—Should prosecutors leak information to the press about continuing investigations of individuals before any formal charges are filed against those individuals? We think not, as a general rule. But the circumstances in this case were highly unusual. Kennedy identified Miguel Nassar Haro, Mexico's former Federal Security Agency chief, as the object of an investigation of a car theft ring that operated in the United States. Kennedy confirmed that the only reason Nassar Haro was not indicted was an objection from the Central Intelligence Agency. Nassar Haro had been a CIA agent.

—Is the Reagan administration failing to live up to the standards set in recent years for openness in government? We fear that it is.

Taking these questions in order:

A confidential letter of censure from Atty. Gen. William French Smith would have served the purpose of disciplining Kennedy and maintaining Justice Department regulations. And it would have kept a good man on the job.

Nassar Haro was no longer an active CIA agent at the time Kennedy named him for attribution. But,

even if he were, the CIA has no right to protect its informants if they commit crimes in the United States against American citizens and their property.

It is unfortunate and damaging to civil liberties when prosecutors and their underlings leak information to the press about criminal investigations that may never result in criminal indictments. The reputations of American citizens can be blackened. Irreparable damage can be done. There is very little that individuals can do if they are harmed by irresponsible and unattributed news reports.

But Nassar Haro is not an American citizen. He was not being brought to justice. Kennedy perceived this as a miscarriage of justice. He knew that the facts in the case were known to a news reporter. By confirming the facts, and allowing his name to be used, he sought only to end the government's protection of a suspect and to bring that suspect to justice.

The Justice Department was hard-nosed in this case, possibly because the Reagan Administration is supporting a bill that would set criminal penalties for publication of names of U.S. secret agents, even when taken from the public record.

Concern that President Reagan's team is moving in the wrong direction — away from openness in government — was heightened by the president's signing last week of an executive order giving government officials broader authority to withhold information from the public on grounds of national security.

The White House mishandling of the Kennedy case does nothing to lessen that concern.